

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FORT SMITH DIVISION

TEMPUR-PEDIC  
INTERNATIONAL, INC.

PLAINTIFF

v.

Civil No. 07-2015

WASTE TO CHARITY, INC.;  
BROCO SUPPLY, INC.; JACK  
FITZGERALD; ERIC VOLOVIC;  
HOWARD HIRSCH; THOMAS SCARELLO;  
NELSON SILVA; CLOSE OUT  
SURPLUS AND SAVINGS, INC.;  
and ERNEST PEIA

DEFENDANTS

**O R D E R**

Now on this 28th day of March, 2007, there comes on for consideration the proposed findings and recommendations filed herein on March 9, 2007, (Doc. 23), by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. The Court has considered the written objections filed by the parties, and has reviewed this case *de novo*.

Being well and sufficiently advised, finds as follows:  
The report and recommendation is proper and should be and is hereby adopted in its entirety.

Accordingly, the Court finds that a preliminary injunction should be and is hereby entered in favor of Tempur-Pedic International, Inc., and each and every Defendant, their officers, affiliate companies, agents,

servants, employees, successors, licensees, and assigns, and all others acting in concert and privity with them are enjoined from and restrained from directly or indirectly moving, transporting, shipping, selling, offering for sale, concealing, damaging, destroying, or otherwise interfering with any Tempur-Pedic mattresses, pillows, slippers, or other merchandise that is in the possession, custody or control of each and every defendant, including each of their officers, affiliate companies, agents, servants, employees, successors, licensees, and assigns having been previously donated by Tempur-Pedic to Separate Defendant Waste to Charity, Inc.

Tempur-Pedic is ordered to post-bond in the amount of \$500,000.

IT IS SO ORDERED.

/s/ Robert T. Dawson  
ROBERT T. DAWSON  
UNITED STATES DISTRICT JUDGE